

# **Complaints Handling Policy for Market Intermediaries**

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### **Purpose**

The Capital Markets Authority (herein after referred to as the Authority) remains committed to its objective of protecting investor interests by being responsive to the needs and concerns of the investing public and providing sufficient recourse with regard to investor complaints lodged against capital markets intermediaries.

This policy aims to streamline the complaints handling process and enhance the Authority's capability of monitoring and reviewing the nature and form of complaints received by all market intermediaries with a view of fostering investor confidence in our capital markets.

### **Scope**

This policy applies to all market intermediaries. The policy intends to support the Authority in addressing its objective of investor protection through effective and efficient handling of investor complaints thus instilling investor confidence in the capital markets.

### **Definitions**

**Complaint-** Any oral or written expression of dissatisfaction about the provision of, or failure to provide a capital markets product or service, or breach of regulatory provisions in the provision of capital markets products and services.

### **Responsibility**

The Authority's Director, Market Operations owns this policy and the Authority's Board is responsible for reviewing and approving the policy and overall compliance of the policy.

All market intermediaries shall be responsible for formulating policies, procedures and guidelines that ensure investor's interests are safe guarded through adherence to the established laws and regulations governing investor protection and complaints handling.

## **Complaints Handling: Obligations of Institutions**

### **Key Principles**

- i. All market intermediaries are required to be responsive by analyzing complaints, on an on-going basis, with an aim of resolving them in a timely manner;

- ii. Market Intermediaries should treat investors equitably, honestly and fairly as this is an integral part of the good governance and corporate culture for all institutions;
- iii. Market Intermediaries are expected to formulate and implement policies and procedures that ensure that these principles are complied with at all times

## Complaints Handling

- i. Market Intermediaries shall be expected to take up the primary role of handling complaints lodged against them by investors;
- ii. Market intermediaries are required to have in place documented effective procedures for receiving, considering and responding to investor complaints in line with **Regulation 16 of the Capital Markets (Conduct of Business) (Market Intermediaries) Regulations 2011** which states as follows:

*16. (1) A market intermediary shall adopt, document and disclose to a client its procedures for the proper handling of complaints from clients and ensure that appropriate remedial action is taken on the complaints promptly.*

*(2) A market intermediary shall designate an officer to review and investigate all complaints lodged by clients and recommend appropriate remedial action to the management of the market intermediary.*

*(3) A market intermediary shall handle complaints in a fair, appropriate and timely manner, and shall inform the client of the outcome.*

*(4) A market intermediary shall, depending on the nature of the complaint, provide where a complaint is justified, appropriate restitution and address the weaknesses in its internal systems that led to the action causing the complaint.*

*(5) A market intermediary shall document all the actions it has taken under the complaints procedure.*

*(6) The complaints procedure shall set out the process for dealing with complaints, including–*

*(a) The apportionment of responsibility for the actions that led to the complaint including to persons not specifically named in the complaint;*

*(b) The timeframe for dealing with a complaint;*

*(c) The timeframe within which to inform the complainant of progress in dealing with the complaint, which shall not be more than three months; and*

*(d) the right to appeal to the chief executive of the market intermediary or another appropriately senior officer nominated by the chief executive, where the complaint cannot otherwise be resolved.*

*(7) A market intermediary shall immediately and in all events within twenty four hours, inform the Authority of any complaint that is still unresolved, three months after it was received.*

*(8) A market intermediary shall maintain a record of complaints showing–*

*(a) The client or any other person from whom a complaint was received;*

*(b) The nature of the complaint;*

*(c) The officer handling the complaint;*

*(d) The officer against whom the complaint was made or who was responsible for the action that led to the complaint;*

*(e) The progress in handling the complaint;*

*(f) The way the complaint was resolved; and*

*(g) The time it took to resolve the complaint.*

*(9) A market intermediary shall also maintain a summary register of complaints.*

### **Time Limit for Solving Complaints**

All Market Intermediaries are required to handle and resolve complaints at the earliest time possible. In incidences where resolution is extended the affected market intermediary is expected to file a report with the Authority at every end of quarter giving a justification and indicating action taken, and steps to be taken to address the matter.

### **Complaint Returns**

All Market intermediaries shall, at the end of every calendar quarter (3 months), and not later than **two days after** the end of the quarter, submit to the Authority quarterly returns of **ALL** complaints received and any outstanding complaints in the prescribed format:

- i. Complainants particulars and his contacts;
- ii. Nature of complaint;
- iii. Detailed action taken;
- iv. Time taken to resolve the complaint; and,
- v. Status of the complaint.

**In instance where no complaints are lodged with a market intermediary, a nil return shall be filed with the Authority.**

Market Intermediaries shall submit the complaint returns to the Authority electronically through the online RBS System.

The Quarterly complaints data submitted by market intermediaries to the Authority shall be aggregated, analyzed, and a quarterly complaints report shall be prepared and submitted to the Authority's management highlighting trends and/ or emerging risks which shall be a source of market intelligence.

The Authority shall further highlight these trends and/ or emerging risks to market intermediaries and other capital markets participants through the quarterly Capital Markets Soundness Report which will also create awareness on complaint trends in the market.

Market Intermediaries should endeavor to resolve complaints through restorative mechanism and any other remedial measure that is in the best interest of the investor. This shall ensure that market intermediaries take the first responsibility to address investor complaints.

Although complainants are encouraged to visit market intermediaries at first instance, the Authority will still act on complaints lodged with it by granting market intermediaries an opportunity to resolve complaints through mediation and arbitration before initiation of any investigation.

## **Investor Recourse**

All investors have recourse to appeal against a decision made by a market intermediary to the Authority and the Authority reserves the right to revisit a complaint where parties place an appeal or opine that the final resolution reached was unfair.